

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

WILLIAM J. COCKRELL, BILLY H.  
COCKRELL, AND CAROLYN V. COCKRELL

PLAINTIFFS

V.

CAUSE NO. 2:95CV016-B-B

MEMPHIS-SHELBY COUNTY AIRPORT  
AUTHORITY, PRESIDENT LARRY COX,  
BOARD MEMBERS, ET AL., CITY OF  
SOUTHAVEN, MISSISSIPPI, MAYOR  
JOE CATES, BOARD OF ALDERMAN,  
ET AL., DESOTO COUNTY SPECIAL  
COURT OF EMINENT DOMAIN,  
MISSISSIPPI, ET AL., JOE WEBSTER,  
ET AL., D.B. BRIDGEFORTH, ET AL.,  
TAYLOR BUNTIN, ET AL., JUDY KITCHENS,  
ET AL.

DEFENDANTS

**ORDER**

This cause is presently before the court on the motion of Judge Joe Webster to dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), and to enter a final judgment on his behalf, pursuant to Fed. R. Civ. P. 54(b). Upon due consideration of the defendant's motion, the plaintiffs' response thereto, and the memoranda submitted by the parties, the court is prepared to rule.

The plaintiffs filed an action pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1985(3) for an alleged violation of the plaintiffs' civil rights under the First, Fourth, Sixth, Seventh, Eighth, Ninth, and Fourteenth Amendments to the U.S. Constitution and under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), 42 U.S.C. § 4601 et seq., seeking damages against the defendants in excess of Two Hundred Million (\$200,000,000.00) dollars. The complaint seeks redress from a city

condemnation of the plaintiffs' home in Desoto County, Mississippi, which is now dedicated for use as part of a public park.

The defendant is sued in his official and individual capacities as Judge of the Desoto County Special Court of Eminent Domain. He is alleged to have conspired with the other defendants by hearing an eminent domain proceeding rather than dismissing the petition. It is further alleged that the defendant violated the plaintiffs' constitutional rights by entering various orders and scheduling hearings in the condemnation proceedings.

Judge Webster asserts judicial immunity. This immunity can only be overcome in two sets of circumstances. First, there is no immunity from liability for nonjudicial actions or actions not taken in the judge's judicial capacity. Second, there is no immunity for actions, though judicial in nature, taken in the complete absence of all jurisdiction. Mireles v. Waco, 502 U.S. 9, 116 L. Ed. 2d 9 (1991); see also Forrester v. White, 484 U.S. 219, 227-229, 98 L. Ed. 2d 555 (1988).

The plaintiffs correctly admit that at all times Judge Webster was acting in his judicial capacity. Their argument is therefore directed toward the defendant's authority to take those judicial actions. It is the plaintiffs' position that Judge Webster acted wholly without jurisdiction in essentially three respects: (1) when he presided over eminent domain proceedings where the owner of the property was a minor; (2) allowing the City of Southaven ("City") to take their property after being informed by the plaintiffs that the City charter did not grant the City the power

of eminent domain; and (3) allowing the Memphis-Shelby County Airport to fund the eminent domain proceedings in violation of the URA. The pro se plaintiffs have also asserted the unique notion that Mississippi abolished the doctrine of judicial immunity when it abolished sovereign immunity in Pruett v. City of Rosedale, 421 So. 2d 1046 (Miss. 1982). The court will examine each issue briefly.

Where a court has some subject-matter jurisdiction, there is sufficient jurisdiction for immunity purposes. Malina v. Gonzales, 994 F.2d 1121, 1125 (5th Cir. 1993). Notwithstanding the plaintiffs' arguments, Judge Webster was well within the jurisdictional boundaries of the eminent domain court. The plaintiffs allege that, since the subject property is owned by an eight-year-old, only the Mississippi chancery court has jurisdiction over the proceedings, pursuant to the Mississippi Constitution § 159(d), providing the chancery court with jurisdiction over "minor's business." The plaintiffs are, however, proceeding under the mistaken presumption that any and all actions involving a minor must be brought in chancery court. That is simply not the case, and, indeed, borders on a frivolous argument. See McLean v. Green, 352 So. 2d 1312, 1314 (Miss. 1977) ("An analysis of the case law . . . clearly shows that the jurisdiction of the chancery court over minors is limited to matters involving equitable relief"); see also Mississippi State Hwy. Comm'n v. Ratcliffe, 251 Miss. 785, 171 So. 2d 356 (1965) (involving a

proceeding in Special Court of Eminent Domain where landowner was a minor). Thus, this claim is without merit.

The plaintiffs' argument that the City was without the power of eminent domain and therefore the court had no authority to order their property condemned is equally without merit. Municipalities are granted the power of eminent domain for the purposes of, inter alia, securing land for parks. Miss. Code Ann. § 21-37-47 (Rev. 1990). In any event, even assuming there was some technical defect in the City's charter, Judge Webster clearly did not act in the "complete absence of all jurisdiction."

The plaintiffs' claim that Judge Webster somehow violated their civil rights by allowing the Airport to fund the City's eminent domain proceedings in violation of the URA is also not well taken. The act clearly does not prohibit such actions. Indeed, the act expressly does not affect the validity of any proceedings under the power of eminent domain:

(a) The provisions of section 4561 of this title create no rights of liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

42 U.S.C. § 4602. Additionally, the fact that it is alleged that the judge acted pursuant to a conspiracy and committed grave procedural errors is not sufficient to avoid absolute judicial immunity. See Mitchell v. McBryde, 944 F.2d 229, 230 (5th Cir. 1991); Holloway v. Walker, 765 F.2d 517, 522 (5th Cir.), cert. denied, 474 U.S. 1037 (1985).

Finally, the court does not consider the plaintiffs' contention that judicial immunity was abolished in Pruett worthy of

further comment. See Presley v. Mississippi State Hwy. Comm'n, 608 So. 2d 1288, 1291 (Miss. 1992) (court only abolished judicially-created "sovereign immunity," thus leaving untouched the "well recognized principle of immunity granted to all legislative, judicial and executive bodies . . . which . . . rests upon an entirely different basis").

The court further finds the relief requested pursuant to Fed. R. Civ. P. 54(b) to be appropriate as there is no just reason for delay. Accordingly, it is ORDERED:

That the motion of defendant Joe Webster to dismiss is GRANTED; and

That judgment is RENDERED in favor of defendant Joe Webster and the plaintiffs' claims against him are DISMISSED with prejudice.

THIS, the \_\_\_\_ day of January, 1996.

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NEAL B. BIGGERS, JR.  
UNITED STATES DISTRICT JUDGE